

REMARKS

Applicants respectfully request entry of the following amendments and remarks in response to the Office Action mailed May 16, 2008. Applicants respectfully submit that the amendments and remarks contained herein place the instant application in condition for allowance.

Upon entry of the amendments in this response, claims 5 – 18 are pending. In particular, Applicants amend claims 5 and 7 – 18. Reconsideration and allowance of the application and presently pending claims are respectfully requested.

I. Rejections Under 35 U.S.C. §102

A. Claim 5 is Allowable Over *Pagani*

The Office Action indicates that claim 5 stands rejected under 35 U.S.C. §102(b) as allegedly being anticipated by U.S. Patent Publication Number 2002/0095484 ("*Pagani*"). Applicants respectfully traverse this rejection on the grounds that *Pagani* does not disclose, teach, or suggest all of the claimed elements. More specifically, claim 5 recites:

A method for checking broadband network components,
the method comprising:
 ***providing an interactive voice response (IVR) interface
for affecting a broadband network component,***
 receiving a request, via the IVR, to affect a broadband
network component, the request being received from a first
system; and
 automatically conveying the request to a second system,
the second system being configured to affect the broadband
network component.

(Emphasis added).

Applicants respectfully submit that claim 5, as amended, is allowable over the cited art for at least the reason that *Pagani* fails to disclose, teach, or suggest a "method for checking broadband network components, the method comprising... ***providing an interactive voice response (IVR) interface for affecting a broadband network component***" as recited in claim 5, as amended. More specifically, *Pagani* discloses "configuring customer premises equipment

(CPE)... [using a] technician's mobile computer [that] may be communicatively coupled to the CPE to provide the common interface. Additionally, the mobile computer may receive configuration data directly from a service provider database (page 1, paragraph [0009]). As illustrated in this passage, *Pagani* appears to disclose interfacing a technician's mobile computer with CPE to configure the CPE. However, *Pagani* fails to even suggest "***providing an interactive voice response (IVR) interface for affecting a broadband network component***" as recited in claim 5, as amended. For at least this reason, claim 5, as amended, is allowable.

B. Claim 17 is Allowable Over *Pagani*

The Office Action indicates that claim 17 stands rejected under 35 U.S.C. §102(b) as allegedly being anticipated by U.S. Patent Publication Number 2002/0095484 ("*Pagani*"). Applicants respectfully traverse this rejection on the grounds that *Pagani* does not disclose, teach, or suggest all of the claimed elements. More specifically, claim 17 recites:

A method for checking broadband network components, the method comprising:

providing an interactive voice response (IVR) interface for affecting a broadband network component;

receiving a request, via the IVR, to affect a broadband network component, the request being received over a public switched telephone network (PSTN);

conveying the request to a network management system (NMS);

receiving a message from the NMS in response to conveying the request; and

transmitting the message over the PSTN.

(Emphasis added).

Applicants respectfully submit that claim 17, as amended, is allowable over the cited art for at least the reason that *Pagani* fails to disclose, teach, or suggest a "method for checking broadband network components, the method comprising... ***providing an interactive voice response (IVR) interface for affecting a broadband network component***" as recited in claim 17, as amended. More specifically, *Pagani* discloses "configuring customer premises equipment (CPE)... [using a] technician's mobile computer [that] may be communicatively

coupled to the CPE to provide the common interface. Additionally, the mobile computer may receive configuration data directly from a service provider database (page 1, paragraph [0009]). As illustrated in this passage, *Pagani* appears to disclose interfacing a technician's mobile computer with CPE to configure the CPE. However, *Pagani* fails to even suggest "***providing an interactive voice response (IVR) interface for affecting a broadband network component***" as recited in claim 17, as amended. For at least this reason, claim 17, as amended, is allowable.

C. Claim 18 is Allowable Over *Pagani*

The Office Action indicates that claim 18 stands rejected under 35 U.S.C. §102(b) as allegedly being anticipated by U.S. Patent Publication Number 2002/0095484 ("*Pagani*"). Applicants respectfully traverse this rejection on the grounds that *Pagani* does not disclose, teach, or suggest all of the claimed elements. More specifically, claim 18 recites:

A method for checking broadband network components,
the method comprising:

***providing an interactive voice response (IVR) interface
for affecting a broadband network component;***

receiving a request, via the IVR, to affect a broadband
network component, the request being received over a public
switched telephone network (PSTN);

conveying the request to a network management system
(NMS);

affecting the broadband network component;
receiving a message from the NMS in response to
affecting the broadband network component; and
transmitting the message over the PSTN.

(Emphasis added).

Applicants respectfully submit that claim 18, as amended, is allowable over the cited art for at least the reason that *Pagani* fails to disclose, teach, or suggest a "method for checking broadband network components, the method comprising... ***providing an interactive voice response (IVR) interface for affecting a broadband network component***" as recited in claim 18, as amended. More specifically, *Pagani* discloses "configuring customer premises

equipment (CPE)... [using a] technician's mobile computer [that] may be communicatively coupled to the CPE to provide the common interface. Additionally, the mobile computer may receive configuration data directly from a service provider database (page 1, paragraph [0009]). As illustrated in this passage, *Pagani* appears to disclose interfacing a technician's mobile computer with CPE to configure the CPE. However, *Pagani* fails to even suggest "**providing an interactive voice response (IVR) interface for affecting a broadband network component**" as recited in claim 18, as amended. For at least this reason, claim 18, as amended, is allowable.

D. Claims 6 – 8, 11, 12, 14 – 15, and 18 are Allowable Over *Pagani*

The Office Action indicates that claims 6 – 8, 11, 12, 14 – 15, and 18 stand rejected under 35 U.S.C. §102(b) as allegedly being anticipated by U.S. Patent Publication Number 2002/0095484 ("*Pagani*"). Applicants respectfully traverse this rejection on the grounds that *Pagani* does not disclose, teach, or suggest all of the claimed elements. More specifically, dependent claims 6 – 8, 11, 12, 14 – 15, and 18 are believed to be allowable for at least the reason that these claims depend from and include the elements of allowable independent claim 5. *In re Fine, Minnesota Mining and Mfg.Co. v. Chemque, Inc.*, 303 F.3d 1294, 1299 (Fed. Cir. 2002).

II. Rejections Under 35 U.S.C. §103 – Claims 9, 10, and 13 are Allowable Over *Pagani*

The Office Action indicates that claims 9, 10, and 13 stand rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over U.S. Patent Publication Number 2002/0095484 ("*Pagani*"). Applicants respectfully traverse this rejection for at least the reason that *Pagani* fails to disclose, teach, or suggest all of the elements of claims 9, 10, and 13. More specifically, dependent claims 9, 10, and 13 are believed to be allowable for at least the reason that these

claims depend from and include the elements of allowable independent claim 5. *In re Fine, Minnesota Mining and Mfg.Co. v. Chemque, Inc.*, 303 F.3d 1294, 1299 (Fed. Cir. 2002).

III. Allegedly Inherent and Well Known Subject Matter

Applicants respectfully submit that the Office Action is deficient for at least the reason that the Office Action cites numerous elements in the claims as being either inherent or well known, without providing any analysis or explanation of whether, in the context of the claim and in view of the specification, these elements are novel and nonobvious. As a nonlimiting example, in rejecting claim 5, the Office Action merely states “[a]s such the system inherently comprises sending a configuration request through multiple components in order to provide the disclosed configuring function” *id.* Additionally, the Office Action reiterates this rejection for claims 17 and 18 by stating “they are rejected as per the claims 5, 6, 14, and 15” (page 3, line 11). Applicants note that it is well established that “[t]he examiner’s action will be complete as to all matters...” (37 C.F.R. §1.104(b) and MPEP 2660). Applicants submit that merely declaring that numerous elements are inherent without providing any analysis or explanation as to why this is the only way in which the stated element could be performed/utilized fails to meet the requirements for a complete examination or inherency under the C.F.R. and MPEP.

Along the same lines, the remainder of the rejection is deficient for at least the reason that, when not relying on inherency or well known rejections, the Office Action provides no analysis or indication of where the cited reference allegedly discloses any of the claim elements. As a nonlimiting example, the Office Action broadly cites the abstract of *Pagani* to show “a system to remotely configure broadband components” (page 2, element 2). However, the abstract fails to even suggest utilization of a PSTN. As indicated above, the remainder of the rejection states “[claims 17 and 18] are rejected as per the claim 5, 6, 14, 15” (page 3, line 11). Applicants submit that this fails to meet the requirements of 37 C.F.R. §1.104(b) and MPEP 2660, as indicated above.

Applicants are entitled to a thorough and complete examination pursuant to 37 C.F.R. §1.104(b) and MPEP 2660, with reference to page and line number, illustrating a detailed analysis of why the examiner feels that a reference (or references) discloses every element of each claim. Additionally, because this Office Action is so deficient in these aspects, Applicants submit that a subsequent Office Action, if necessary, must be non-final.

A. The Subject Matter of Claims 5 – 6 and 14 – 18 is Not Inherent

In addition, the Office Action asserts that “the system inherently comprises sending a configuration request through multiple components in order to provide the disclosed configuring function” (page 2, element 2). The Office Action also asserts that “the diverse equipment would each have different protocols and inherently comprise the means to translate between protocols” (page 2, element 2). The Office Action additionally asserts “the broadband equipment responds to configuration commands (inherently must be translated between protocols)” (page 3, line 8). Applicants respectfully traverse the findings of inherency. It is well established that “[t]o establish inherency, the extrinsic evidence must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill. Inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient.” *In Re Anthony J. Robertson*, 169 F.3d 743, 745, 49 U.S.P.Q.2D (BNA) 1949, 1950-51 (Fed. Cir. 1999). More to the point, in order for an element to be considered “inherent,” the only possible way for proper operation of the invention is via that element. If even one other way may be utilized, the element cannot be considered inherent.

Applicants respectfully submit that the Office Action fails to adequately establish that the subject matter of 5 – 6 and 14 – 18 is necessarily present. As the Office Action fails to provide any extrinsic evidence that makes clear that the missing descriptive matter is necessarily present, Applicants respectfully submit that inherency has not been established. In accordance

with *In re Robertson*, Applicants traverse the inherency finding, and submit that claims 5 – 6 and 14 – 18 are allowable over the cited art.

B. The Subject Matter of Claims 6 – 7 and 17 – 18 is Not Well Known

Additionally, the Office Action asserts “[t]he examiner further notes the extremely well known concept of an Internet where any number of various components of different signaling protocol may communicate with each other” (page 2, last line). Applicants respectfully traverse the alleged finding of well known subject matter and submit that the subject matter cited above should not be considered well known for at least the specific and particular reason that the Office Action does not include specific factual findings predicated on sound technical and scientific reasoning to support such conclusions, as required. Additionally, Applicants submit that merely providing a reference (or a couple of references) that allegedly discloses the subject matter in question, does not rise to an evidentiary level of being well known in the industry. Applicants submit that even if the cited references disclose the subject matter in question (a point that the Applicants are not conceding), presence of that subject matter in a reference does not raise the level of commonality of that subject matter to something of unquestionable fact. For at least this specific and particular reason, Applicants submit that the subject matter in question is not well known in the art.

Applicants additionally submit that particularly in the context of the claimed combination that includes “automatically conveying the request to a second system, the second system being configured to affect the broadband network component,” the subject matter in question is too complex for a reasonably skilled person to consider it to be well known to the point that no additional evidence is needed. For at least this additional specific and particular reason, Applicants respectfully submit that the subject matter in question is not well known in the art, respectfully traverse the alleged finding of well known subject matter, and submit that claims 6 and 7 are patentable in view of the cited art.

CONCLUSION

In light of the foregoing amendments and for at least the reasons set forth above, all objections and/or rejections have been traversed, rendered moot, and/or addressed, and that the now pending claims are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested.

Any other statements in the Office Action that are not explicitly addressed herein are not intended to be admitted. In addition, any and all findings of inherency are traversed as not having been shown to be necessarily present. Furthermore, any and all findings of well-known art and Official Notice, or statements interpreted similarly, should not be considered well-known for the particular and specific reasons that the claimed combinations are too complex to support such conclusions and because the Office Action does not include specific findings predicated on sound technical and scientific reasoning to support such conclusions.

If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (770) 933-9500.

Respectfully submitted,

/afb/

Anthony F. Bonner Jr. Reg. No. 55,012

**THOMAS, KAYDEN,
HORSTEMEYER & RISLEY, L.L.P.**
Suite 1500
600 Galleria Parkway SE
Atlanta, Georgia 30339
(770) 933-9500
Customer No.: **38823**